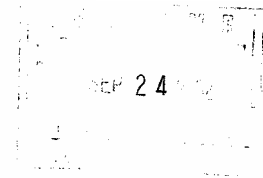


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MEMORANDUM

DATE: September 16, 2002

TO: Town Administrator

CC: Mayor and Councilmembers
Mark Kutney
Chief John George

FROM: Monroe D. Kiar

RE: Control No. 020807
Ordinance - Motorized watercraft

Request: This office has been requested to prepare an Ordinance concerning motorized watercraft.

Discussion:

Proposed
ORDINANCE NO. _____

AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, AMENDING THE CODE OF ORDINANCES OF THE TOWN OF DAVIE, BY ADDING A SECTION CONCERNING MOTORIZED WATERCRAFT; DEFINING "MOTORIZED WATERCRAFT" FOR PURPOSES OF THE ORDINANCE; AND A PROVISION FOR FINING AND PUNISHING VIOLATORS; PROVIDING FOR INCLUSION IN THE TOWN CODE; PROVIDING FOR SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town Council of the Town of Davie, Florida, finds and determines it is in the best interests of the Town of Davie to amend the Davie Code by adding a Section concerning Motorized Watercraft;

WHEREAS, the Town Council of the Town of Davie desires to amend the Town Code by adding a Section concerning Motorized Watercraft so as to promote the health, safety, welfare and general well being of the residents of the Town of Davie; and

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF DAVIE, FLORIDA.

SECTION 1. The following shall be added as Section ____ to the Code of the Town of Davie:

Section ____ Motorized Watercraft. The following applies to all motorized watercraft in Davie, unless there is a specific exception:

- (1) This Ordinance applies to any and all motorized watercraft on any body of water, lake, canal, watercourse, lagoon, pond, slough, bay or waterway or other body of water or waters within the Town of Davie except for:
 - (a) emergency police, fire, EMS vessels and maintenance vessels used by the Town or other governmental authority or entity.
 - (b) motorized watercraft operating on the New River.
- (2) "Motorized watercraft" is defined in this Ordinance as any boat, vessel or craft which is powered in whole or in part by a motor or engine or powered in whole or in part by machinery.
- (3) It shall be unlawful for any person or entity to operate, permit, allow or cause to be operated a motorized watercraft in the Town of Davie, unless it is excepted as indicated in subsection (1) immediately above. A person or entity is deemed to permit or allow or cause to be operated a watercraft if the watercraft is operated with that person's or entity's permission.
- (4) Any person or entity found to be in violation of this section may be subject to a fine not to exceed \$500 per incident or have the motorized watercraft impounded for a period not in excess of 30 days per incident, or both. Both the owner and the operator may be found liable or guilty for each incident. If it is determined that the watercraft shall be impounded, all costs associated with the impoundment shall be the responsibility of the person who is found in violation of this section, and is considered a lien on the motorcraft.

SECTION 2. All Ordinances or parts of Ordinances in conflict herewith are to the extent of such conflict hereby repealed.

SECTION 3. If any section, subsection, sentence, clause, phrase, or portion of this Ordinance is, for any reason, held invalid or unconstitutional by any Court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portion of this Ordinance.

SECTION 4. This ordinance shall take effect immediately upon its passage and adoption.

PASSED ON FIRST READING THIS ____ DAY OF _____,
2002.

PASSED ON SECOND READING THIS ____ DAY OF _____,
2002.

MAYOR/COUNCIL MEMBER

ATTEST:

TOWN CLERK

APPROVED THIS ____ DAY OF _____, 2002.

This proposed Ordinance as prepared is very broad. Staff, the police department and the Town Council might want to consider the following questions concerning this Ordinance:

Subsection:

Questions:

- (1) This motorized watercraft applies very broadly, except for those exceptions indicated in (a) and (b). Questions:
 - do you want those exceptions indicated in (a) and (b)?
 - do you want broader exceptions than those indicated in (a) and (b)?
- (2) The definition seems complete. If you feel the definition should be different, please advise.
- (3) These questions arise: Do you want the operation of the motorized watercraft unlawful or do you want to make it more narrow in what is unlawful? For example, limiting the hours upon which the motorized watercraft can be operated (for example, 8 AM to 7 PM or sunrise to

sunset), or limiting the speed to no more than idle speed?

(4) Do you want this fine and punishment or something different?

Please give this Office further direction as to what it desires in this Ordinance.

In Officer Stephen Olenchak's excellent work-up concerning this matter, he points out that Section 15-7(18) of the Davie Code deals with "boats" with reference to noise, using a maximum of 75 dBA as measured at a distance of not less than 50 feet.

If you have any further questions, please advise.